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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,789	12/01/2003	Ichiro Futohashi	51270-307071	1910

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EXAMINER

CHAN, RICHARD

ART UNIT	PAPER NUMBER
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2618

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/724,789	Applicant(s) FUTOHASHI, ICHIRO	
	Examiner Richard Chan	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 and 9 is/are allowed.
- 6) ☒ Claim(s) 1,2,6 and 7 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/29/07 have been fully considered but they are not persuasive.

With respect to applicant's arguments regarding claim 1 and 6, the applicant states that the Kyronlhati reference does not specifically disclose wherein "starting generating the melody from the arbitrary performance starting position specified in the musical composition data."

However the examiner points to the Kyronlhati reference specifically wherein the ringing tone generator functions so that it generates a tone of desired frequency for the period of time it is switched. The ringing tone sequence is stored in nonvolatile memory. The ring tone will generate a sound when activated.

The examiner interprets arbitrary starting point as a starting position of a performance as stated by the applicant. The applicant does not specifically disclose in the claims wherein the arbitrary point may also include wherein when the instruction for ending the reproduction is detected, the CPU writes positional information indicative of the end of the reproduction as performance starting position information into the performance starting register.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kyronlhati (US 5,452,354).

With respect to claim 1, Kyronlhati discloses the telecommunication terminal apparatus Fig.1 operable for providing a notification using a melody, comprising: storage means 10 configured to store musical composition data in which a plurality of starting points, for starting a performance are set;

point register means for storing information indicative of an arbitrary performance starting position of the musical composition data; (Col.5 line 48-57)

and musical tone-generating means 12, in Fig. 2 responsive to an instruction for starting the notification using the melody, for reading out the musical composition data from said storage means and for reproducing the readout musical composition according to the information indicative of the arbitrary performance starting position, stored in said point register means, to thereby start generating the melody from the arbitrary performance starting position of the musical composition data.(Col.5 line 56-Col.6 line 11)

With respect to claim 2, Kyronlhati discloses the telecommunication terminal apparatus Fig.2 according to claim 1, wherein said musical tone-generating means 12 is responsive to an instruction for ending the notification from control unit 13 using the

melody, for stopping reproducing the musical composition data and for writing information indicative of a reproduction stop position of the musical composition data having been reproduced and a starting point corresponding to a position closest to the reproduction stop position among the plurality of starting points into said point register means. (Col.5 line 56-58)

With respect to claim 6, Kyronlhati discloses a telecommunication terminal apparatus Fig.2 operable for providing notification using a melody, comprising: storage means 11 configured to store musical composition data in which a plurality of starting points are suitable for starting a performance are set;

point register means for storing information indicative of an arbitrary performance starting position of the musical composition data said arbitrary performance starting position corresponding to a selected one of said plurality of starting points; (Col.5 line 48-57)

and musical tone generating means 12 in Fig.2 responsive to an instruction for starting the notification using the melody through control unit 13, for dynamically generating the melody from said selected one of the plurality of starting points by reproducing the musical composition data in accordance with the new information indicative of the performance starting position. (Col.5 line 56-Col.6 line 11)

With respect to claim 7, Kyronlhati discloses a telecommunication terminal apparatus 100 according to claim 6, wherein said musical tone generating means 12 is

responsive to an instruction for ending the notification using the melody, and is configured to stop reproducing the musical composition data and to dynamically write, into said point register means, (Col.5 line 48-57) information indicative of a reproduction stop position of the musical composition data and a starting position corresponding to a single one of said plurality of starting points that is closest to the reproduction stop position. (Col.5 line 56-Col.6 line 11)

Allowable Subject Matter

4. Claims 3, 4, AND 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

With respect to claim 3, Kyronlhati discloses the telecommunication terminal apparatus 100 according to claim 1, wherein said musical tone-generating means 12 is responsive to an instruction from control unit 13 for ending the notification using the melody, for stopping reproducing the musical composition data (Col.5 line 48-57) and for writing information indicative of a reproduction stop position of the musical composition data 203, however the prior art does not disclose wherein the musical data having been reproduced and a starting point corresponding to a rear position closest to the reproduction stop position among the plurality of starting points into said point register means.

With respect to claim 4, Kyronlhati discloses the telecommunication terminal apparatus 100 according to claim 1, wherein said musical tone-generating means 12 is responsive to the instruction for starting the notification using the melody at point, however the prior art does not disclose wherein generating the melody from a starting point corresponding to a rear position closest to the performance starting position stored in said point register means among the plurality of starting points.

With respect to claim 5, Kyronlhati discloses a telecommunications terminal apparatus according to claim 1, however the prior art does not specifically disclose wherein one starting point can be selected from among the plurality of starting points, and the selected one starting point is written as the arbitrary performance starting position into said point register means.

5. Claims 8 and 9 are allowed.

The following is an examiner's statement of reasons for allowance:

With respect to claim 8, Kyronlhati telecommunication terminal apparatus operable for providing a notification using a melody, comprising: storage 10 means capable of storing musical composition data in which a plurality of starting points suitable for starting performance are set; (Abstract)

point register means for storing information indicative of an arbitrary performance starting position of the musical composition data; (Col.5 line 48-57)

and musical tone-generating means responsive to an instruction for starting the notification using the melody, for reading out the musical composition data from said storage means and for reproducing the read out musical composition data according to the information indicative of the arbitrary performance starting position, (Col.5 line 56-Col.6 line 11) stored in said point register means, however the prior art does not specifically disclose wherein the start generating the melody from the arbitrary performance starting position of the musical composition data, wherein said point register means is operable for storing, as the information indicative of the arbitrary performance starting position, a starting point coincident with a performance ending position of the musical composition data among the plurality of starting points set in the musical composition or the closest starting point after the performance ending position among the plurality of starting points.

With respect to claim 9, Kyronlhati discloses the telecommunication terminal apparatus operable for providing a notification using a melody, (Abstract) comprising: storage means operable for storing musical composition data in which a plurality of starting points suitable for starting performance are set;

point register means for storing information indicative of an arbitrary performance starting position of the musical composition data; (Col.5 line 48-57)

and musical tone-generating means responsive to an instruction for starting the notification using the melody, for comparing the information indicative of the arbitrary performance starting position stored in the point register means with the plurality of starting points set in the musical composition data, and for detecting the starting point coincident with the performance ending position among the plurality of starting points or the closest starting point after the performance ending position among the plurality of starting points and reproducing the musical composition data according to the detected the starting point, to thereby start generating the melody from the arbitrary performance starting position of the musical composition data, (Col.5 line 56-Col.6 line 11) however the prior art does not specifically disclose wherein said point register means is operable for storing, as the information indicative of the arbitrary performance starting position, a performance ending position of the musical composition data which has been reproduced by said musical tone-generating means

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Chan whose telephone number is (571) 272-0570. The examiner can normally be reached on Mon - Fri (9AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571)272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number:
10/724,789
Art Unit: 2618

Page 10

Richard Chan
Art Division 2618
1/22/08



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